



DEPARTMENT OF THE NAVY
OFFICE OF THE GENERAL COUNSEL
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

10 May 2017

CERTIFIED—RETURN RECEIPT REQUESTED

Also via email to bill20071@outlook.com

Mr. William J. Nye
251 Tiffany Avenue
Warwick, RI 02889

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL
Department of Navy OGC FOIA Appeal Number 17-048
FOIA Online Request Number DON-NAVY-2014-010321

Dear. Mr. Nye:

I am responding to the 10 pages of materials Mr. Justyn Charon, a member of Congressman Jim Langevin's staff, emailed to Mr. Lawrence J. Lippolis, an attorney on my staff, on April 11, 2017 while you were in Congressman Langevin's office. The materials consist of a Facsimile transmission cover sheet used by the Congressman's office and nine pages, in reverse chronological order, labeled "FAX 1/9," Fax 2/9,; etc. as follows:

FAX 1/9: your April 11, 2017 letter to the OGC FOIA Appeals Office, which you labeled a "FOIA Appeal;"

FAX 2/9: a printout of a March 27, 2017 email to you from the Naval Sea Systems Command (NAVSEA) Freedom of Information Act (FOIA) Program Officer;

FAX 3/9 and FAX 4/ 9: A 2 page December 8, 2014 letter to you from the NAVSEA FOIA Program Officer;

FAX 5/9: an unsigned October 10, 2014 letter from you to the NAVSEA FOIA Program Officer;

FAX 6/9: a memorandum from the Naval Criminal Investigative Service (NCIS) FOIA Office to the NAVSEA FOIA Office dated September 10, 2014;

FAX 7/9: a printout of a March 1, 2014 email from you to the NCIS FOIA Office; and

FAX 8/9 and FAX 9/9: a two page undated letter from the NCIS FOIA Office to you that refers to your March 1, 2014 FOIA to NCIS request and a June 4, 2014 letter from NCIS to you concerning that request.

In this letter I refer to those documents as FAX-1, FAX-2. Etc.

Having reviewed those documents, I conclude that on April 11, 2017, by way of FAX-1, you attempted to file an appeal from FAX-3 and FAX-4, the December 8, 2014 NAVSEA FOIA Program Officer letter. This letter informed you that NAVSEA was closing that portion of your

Subj: Department of Navy OGC FOIA Appeal Number 17-048

March 1, 2014 FOIA request to NCIS (see FAX-8 and FAX-9), which NCIS had referred to NAVSEA in FAX-6, the NCIS memorandum of September 10, 2014. NAVSEA was closing this request because in FAX-5, your letter to the NAVSEA FOIA Program Officer dated October 10, 2014, and in a phone conversation with a member of the NAVSEA FOIA Office on October 9 that you mentioned in FAX-5, you "requested" NAVSEA stop processing the NCIS referral.

As required by Department of Navy (DON) policy that all FOIA requests be captured in FOIA OnLine (FOL), a multi-agency online FOIA processing tool, NAVSEA had created FOL Case Number DON-NAVY-2014-010321 to process the NCIS referral. FAX-5, your letter of October 10, 2014 to NAVSEA, demonstrates you objected to this action, accusing members of the NAVSEA FOIA Program Office of "fraudulent use" of the FOL tracking system. Furthermore, you refused to approve the creation of DON-NAVY-2014-010321, which you said was fraudulent. You wrote:

1. Yesterday (Oct 9, 2014) at 4:25 pm, I received the subject phone call. ... My position on any matter is stated in my written communications, and any interpretation of such must not be modified or supplemented by the subject phone call.

2. ... You emailed me on October 6, stating "This message is to confirm your request submission to the FOIAonline application ... Tracking Number: DON-NAVY-2014-010321 ... Date Submitted: 09/28/2014 ". On October 7, I emailed you back. I said "I did not submit, or cause to be submitted, DON-NAVY-2014-010321. This is an abuse of the FOIA online system, and should be considered fraudulent. Please advise on how you intend to correct this."

3. I repeat here, that I did not submit DON-NAVY-2014-010321. I called the FOIA online help desk, and they confirmed my name and email is identified with the request. This FOIA request is fraudulent. I have yet to receive a response from you on this matter.

Consequently, the NAVSEA FOIA Program Officer concluded, and I agree, that you withdrew your FOIA request because you objected to the DON's use of FOL. In her December 8, 2014 letter (FAX-3 and FAX-4), the NAVSEA FOIA Program Officer wrote:

This is in response to your October 10, 2014 inquiry into an "unsolicited phone call from NAVSEA, and fraudulent use of FOIA online system."

We apologize for any inconvenience that this may have caused you. Your original Freedom of Information Act (FOIA) request dated March 1, 2014 for a "Report on Investigation of General Dynamics Electric Boat, of Groton CT., completed in the 2011-2014 timeframe" was submitted by you to the Naval Criminal Investigative Service (NCIS) for processing. On September 10, 2014, NCIS responded to your request, subsequently providing you with all releasable information and withholding partial information pursuant to (b) (6) and (b) (7) (C) of the FOIA. (See the attached letter).

In Paragraph six (6) of the NCIS response letter, it states that "some of the information contained within the report is under the release authority of the Commander, Naval Sea Systems Command (NAVSEA), and Department of Defense Office of Inspector General." In order for NAVSEA to process the remaining portions of your request, as directed by NCIS, your FOIA request was placed in the FOIA Online System for tracking purposes, and assigned DON-NAVY-2014-010321. The FOIA Online System automatically sends an email to the requester, confirming receipt of their request. We understand that you did not directly submit a request to the FOIA Online System, but the system is our Navy directed FOIA tracking system, and NAVSEA is required to task and assign requests through this system. Therefore, since NAVSEA was tasked from NCIS to review records and provide you with a final response, your request was coordinated through the FOIA Online System. There was an "official use of FOIA Online" to coordinate your request between NCIS and NAVSEA.

Subj: Department of Navy OGC FOIA Appeal Number 17-048

As a result of your telephone call/inquiry to the Chief of Naval Operations (DNS 36), Ms. Brown of my staff contacted you on October 9, 2014 to clarify your request, and to explain the above process and coordination with regard to your request. There was no abuse of the FOIA Online System, nor any fraudulent actions commented [committed]. NAVSEA followed Navy policy with sending you an email acknowledging receipt of your DON-NAVY-2014-010321 request and contacting you via telephone to clarify your request and the actions taken.

With regard to your concern, and your telephone statement to Ms. Brown on October 9th, whereby you requested NAVSEA to cease processing your request, NAVSEA will no longer process the portion of your request that was referred to NAVSEA. Therefore, we are closing your request without any further action.

Again, we apologize for any confusion with processing your request.

Please contact our office at (202)781-4124, if you have further questions or concerns regarding the processing of this request.

While it is your right to submit FOIA requests to DON, you do not have the right to dictate how the DON will use FOIA tracking systems such as FOL to process your requests and, when appropriate, to use FOL to make referrals. You also have the right to withdraw FOIA requests, and I conclude you did so, as evidenced by your October 10, 2014 letter to NAVSEA and NAVSEA's December 8, 2014 letter in reply. Consequently, there is no FOIA request from which you may appeal and no action for me to take.

FOL reflects that NAVSEA did close DON-NAVY-2014-010321 in FOL on February 25, 2015. FOL also reflects that at some point in 2015 you created an account in FOL and have been using it to create and submit FOIA requests to the DON, as evidenced by FOL request number DON-NAVY-2015-001163. Therefore, as the NAVSEA FOIA Program Officer informed you in FAX-2 after consulting with a member of my staff, if you are still interested in obtaining the records NCIS referred to NAVSEA in 2014, you should make a new FOIA request, and you should use FOL to make that request. As you may know, the NAVSEA FOIA Program Office receives many FOIA requests each year, which it processes in the order they are received. NAVSEA will process any new request you decide to make in the order it is received, behind other requests NAVSEA is processing. The materials submitted through Congressman Langevin's office on April 11, 2017 imply you expect immediate action to produce the records NCIS referred to NAVSEA in 2014. That would require NAVSEA to process the documents NCIS referred to it before responding to other FOIA requesters still awaiting action on their requests, which would be unfair to other requesters.

Sincerely,



Garrett L Rensing
Deputy General Counsel

Copy to: NAVSEA FOIA Program Officer

CONGRESSMAN
JIM LANGEVIN

Second District – Rhode Island



FACSIMILE TRANSMISSION

300 Centerville Road, Suite 200S • Warwick, RI 02886 • Phone: (401) 732-9400 • Fax: (401) 737-2982

To: Lawrence Hippalis

Re: FOIA Appeals

Fax Number: 1 (703) 697-1878

Date: April 11, 2017

Pages (with cover):

From:

- ☐ Congressman Jim Langevin
- ☐ Seth Klaiman
- ☐ Nancy Beattie
- ☐ Meg Geoghegan
- ☐ Elena Monteiro

- ☐ Stuart Malec
- ☐ Nick Sedgley
- ☐ Julio Paz
- ☒ Justyn Charon
- ☐ Katie Albert

Notes/comments: FOIA Appeal from William Nye

FAX 1/9

ATTN: Navy OGC FOIA Appeals Office, fax 703-697-1878 (~~703-614-9400~~ ?)

FOIA APPEAL

I am appealing the prolonged, unexcused inaction of NAVSEA, concerning a certain Freedom of Information Act (FOIA) referral.

I submitted a FOIA request to NCIS on March 1, 2014. I submitted the request by email, using my email account bill20071@cox.net (note my current email address has changed). A copy of my FOIA request, annotated by NCIS (and/or possibly others), is attached to this appeal.

NCIS responded to my FOIA request by releasing a partial disclosure. According an NCIS letter dated 10(?) Sep 2014, signed by Carin M. Cozza (copy attached), NCIS referred certain unidentified records, described only as "Documents", to NAVSEA for their review and direct release to me. However, I have never received any documents from NAVSEA, nor have I received a final FOIA determination from NAVSEA. It has now been over three years since my FOIA request was submitted.

NAVSEA claims I told them to stop processing the referral, as the reason I received no documents. This claim is false. I never told NAVSEA how they should, or should not, proceed, or how they should or should not do their job. My letter dated Oct 10, 2014 (copy attached) is my statement on the matter, which NAVSEA replied to, inexplicably, by putting words in my mouth, which I never wrote or spoke. NAVSEA's reply to my Oct 10, 2014 letter, dated Dec 8, 2014 is attached to this appeal.

NAVSEA's recent email, dated Mar 27, 2017 (copy attached), continues to falsely claim I directed NAVSEA to "cease" processing the referral. This claim is clearly inconsistent with my Oct 10, 2014 letter.

According to NAVSEA's recent email, I must "submit a new request for the documents" (they refer to "10/10/14", but this is obviously not the date of my Mar 1, 2014 request). A resubmitted FOIA request serves no practical purpose, would create additional unwarranted delay, and may present other impeding issues, given (in part) the undisclosed nature or description of the "Documents".

NAVSEA has not provided a true or valid reason for not processing the referral from NCIS. I hereby appeal NAVSEA's refusal to disclose the documents referred by NCIS.

Sincerely,
 11 APR 2017
William Nye
bill20071@outlook.com

FAX 2/9

Subject: Response to your 10 March status request
From: NSSC_NAVSEA FOIA <NAVSEAFOIA.fct@navy.mil>
Date: 3/27/17. 10:52 AM
To: "bill20071@outlook.com" <bill20071@outlook.com>

Good Morning Mr. Nye,

This is in response to your March 10, 2017 telephone conversation with Ms. Brown and myself of the NAVSEA FOIA office. In that conversation, you requested a status for the "original request submitted on 10/10/14 to NCIS for a "Report on Investigation of General Dynamics Electric Boat, of Groton CT completed in the 2011-2014 timeframe."

We explained to you that NCIS responded to your request, and told you that some of the information contained within the report is under the release of NAVSEA. Their letter indicated to you that they were forwarding your request to NAVSEA for processing and a final response to you.

Because you stated that "since you did not submit a request directly to NAVSEA that we should cease any processing on this request", we sent you a letter detailing our actions in December 2014, and closed out your request.

Based on our coordination with the Office of General Counsel (OGC), If you are still interested in the above records, you will need to submit a new request for the documents.

v/r, Donna M. Hamlin
Freedom of Information & Privacy Act Officer
Naval Sea Systems Command



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2101

FAX 3/9

IN REPLY REFER TO

5720

Ser 00A5.7I/2014-010321

8 December 2014

Mr. William J. Nye
251 Tiffany Avenue
Warwick, RI 02889

Dear Mr. Nye:

This is in response to your October 10, 2014 inquiry into an "unsolicited phone call from NAVSEA, and fraudulent use of FOIA online system."

We apologize for any inconvenience that this may have caused you. Your original Freedom of Information Act (FOIA) request dated March 1, 2014 for a "Report on Investigation of General Dynamics Electric Boat, of Groton CT., completed in the 2011-2014 timeframe" was submitted by you to the Naval Criminal Investigative Service (NCIS) for processing. On September 10, 2014, NCIS responded to your request, subsequently providing you with all releasable information and withholding partial information pursuant to (b)(6) and (b)(7)(C) of the FOIA. (See the attached letter).

In Paragraph six (6) of the NCIS response letter, it states that "some of the information contained within the report is under the release authority of the Commander, Naval Sea Systems Command (NAVSEA), and Department of Defense Office of Inspector General." In order for NAVSEA to process the remaining portions of your request, as directed by NCIS, your FOIA request was placed in the FOIA Online System for tracking purposes, and assigned DON-NAVY-2014-010321. The FOIA Online System automatically sends an email to the requester, confirming receipt of their request. We understand that you did not directly submit a request to the FOIA Online System, but the system is our Navy directed FOIA tracking system, and NAVSEA is required to task and assign requests through this system. Therefore, since NAVSEA was tasked from NCIS to review records and provide you with a final response, your request was coordinated through the FOIA Online System. There was an "official use of FOIA Online" to coordinate your request between NCIS and NAVSEA.

FAX 4/9

As a result of your telephone call/inquiry to the Chief of Naval Operations (DNS 36), Ms. Brown of my staff contacted you on October 9, 2014 to clarify your request, and to explain the above process and coordination with regard to your request. There was no abuse of the FOIA Online System, nor any fraudulent actions commented. NAVSEA followed Navy policy with sending you an email acknowledging receipt of your DON-NAVY-2014-010321 request and contacting you via telephone to clarify your request and the actions taken.

With regard to your concern, and your telephone statement to Ms. Brown on October 9th, whereby you requested NAVSEA to cease processing your request, NAVSEA will no longer process the portion of your request that was referred to NAVSEA. Therefore, we are closing your request without any further action.

Again, we apologize for any confusion with processing your request.

Please contact our office at (202)781-4124, if you have further questions or concerns regarding the processing of this request.

Sincerely,

Donna M. Hamlin

DONNA M. HAMLIN

Head, Freedom of Information
Act Program

By Direction of the Commander

FAX 5/9

William J. Nye
251 Tiffany Ave
Warwick, RI 02889

October 10, 2014

Attn: Donna M. Hamlin, Head, FOIA Program
Department of the Navy
Naval Sea Systems Command
1333 Isaac Hull Ave, SE
Washington Navy Yard, DC 20376-0001

Subject: Unsolicited phone call from Ms. Idrelia Brown (caller Id 202-781-2430), and fraudulent use of FOIA online system

Dear Ms. Hamlin:

1. Yesterday (Oct 9, 2014) at 4:25 pm, I received the subject phone call. The person who called me is from your office. She stated something about certain FOIA request(s). I told her that I cannot tell her to do anything or not to do anything, and that this phone call was an improper attempt to circumvent the necessary on-going formal procedures. If she was seeking some form of approval from me, I cannot give any such approval. My position on any matter is stated in my written communications, and any interpretation of such must not be modified or supplemented by the subject phone call.

2. There is another serious matter, which Ms. Brown did not mention, unless, she was attempting to restate the following matter in a way which evaded my understanding. You emailed me on October 6, stating "*This message is to confirm your request submission to the FOIAonline application . . . Tracking Number: DON-NAVY-2014-010321 . . . Date Submitted: 09/28/2014*". On October 7, I emailed you back. I said "*I did not submit, or cause to be submitted, DON-NAVY-2014-010321. This is an abuse of the FOIA online system, and should be considered fraudulent. Please advise on how you intend to correct this.*"

3. I repeat here, that I did not submit DON-NAVY-2014-010321. I called the FOIA online help desk, and they confirmed my name and email is identified with the request. This FOIA request is fraudulent. I have yet to receive a response from you on this matter.

Thank you.

Very truly yours,

William J. Nye



DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

FAX 6/9

5720 2014-006357
SEROOLJF/14U1962

10 SEP 2014

MEMORANDUM

From: Director, Naval Criminal Investigative Service, Freedom of Information Act Office, Code 00LJF

To: Commander, Naval Sea Systems Command, Attn: SEA COS5

Subj: FREEDOM OF INFORMATION ACT REQUEST OF WILLIAM NYE

Encl: (1) Copy of Request
(2) Documents
(3) NCIS Response

1. While processing enclosure (1), we located documents proprietary to your Command. We are forwarding those documents to you at enclosure (2) for a release determination and direct response to the requester, who has been advised of this referral, enclosure (3) pertains.

2. If you have any questions pertaining to this matter, the point of contact is Patricia Ross, who may be reached at (571) 305-9090 or via electronic mail at patricia.ross1@navy.mil.

Sincerely,

Carin M Cozza
CARIN M. COZZA
LT, JAGC, USN

NAVAL SEA SYSTEMS COMMAND
FREEDOM OF INFORMATION ACT OFFICE
REQUEST NO. _____
DATE RECEIVED: _____
DATE DUE: _____

FAX 7/9

Cozza, Carin M LT NCIS, Code 00L

From: bill20071 <bill20071@cox.net>
Sent: Saturday, March 01, 2014 8:35
To: NCISFOIA
Subject: Freedom of Information Act Request, NCIS

for file
see
received
2-28
other

Freedom of Information Act Request, NCIS

Description of requested records:

Report on Investigation of General Dynamics Electric Boat, of Groton CT., completed in the 2011 - 2014 timeframe. This investigation would have been related to a complaint made by William Nye (the requester).

Pre-authorized fee (if any): \$20.00

Requested preferred format: pdf

Requester:

William Nye
251 Tiffany Ave
Warwick RI 02889
401-474-0125 (cell)

2014F 000 303

NAVAL SEA SYSTEMS COMMAND
FREEDOM OF INFORMATION ACT OFFICE
REQUEST NO. _____
DATE RECEIVED: 9-28-14
DATE DUE: 10-27-14



DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

FAX 4/9

5720 2014-006357
SEROOLJF/14U1961

Mr. William Nye
251 Tiffany Avenue
Warwick, RI 02889

Dear Mr. Nye:

This further responds to your March 1, 2014 request in which you seek information pertaining to General Dynamics Electric Boat of Groton, CT from the timeframe of 2001- 2014, related to a complaint you made. Reference is also made to our June 4, 2014 letter to you submitted in response to your appeal made to the Office of the Judge Advocate General.

As advised in our letter, one open Naval Criminal Investigative Service (NCIS) investigative report considered responsive to your request was located, specifically cited as the NCIS Case Control Number: 27OCT11-NENL-0226-4MNA. The investigation has now closed, and we have recently received a copy of the report.

The processing of that report has been completed. Our review of these documents reveals that they contain personal identifiers (such as names and social security numbers) of third parties, the release of which would constitute an unwarranted invasion of personal privacy. Accordingly, we must partially deny your request and withhold this information pursuant to the Freedom of Information Act (FOIA) provisions 5 U.S.C. § 552(b)(6) and (b)(7)(C).

All releasable information is provided to you at enclosure (1). We have also provided an enclosure explaining the various exemptions of the FOIA.

As the official responsible for the partial denial of your request, I am advising you of your right to appeal this determination. Your appeal must be postmarked within 60 calendar days from the date of this letter and should be addressed to the Secretary of the Navy's designee: Office of the Judge Advocate General, (Code 14), 1322 Patterson Avenue, S.E., Suite 3000, Washington Navy Yard, D.C. 20374-5066. The envelope and letter must bear the annotation "FOIA Appeal". A copy of your initial request and a copy of this partial denial letter must accompany the appeal.

Some of the information contained within the report is under the release authority of the Commander, Naval Sea Systems Command, Attn: SEA COS5, 1333 Isaac Hull Avenue, S.E., Washington, D.C. 20376 and the Department of Defense Office of Inspector General, FOIA Requester Service Center, ATTN: FOIA/PA Chief, Suite 17F18, 4800 Mark Center Drive, Alexandria, VA 22350-1500. We are forwarding those documents to them for a release determination and direct response to you.


FAX 9/9

2014-006357
continued

The report also referenced a Compact Disc, which has not been processed. If you wish to have this considered pursuant to the FOIA, please advise this office and a supplemental response will be provided to you.

There are no assessable fees associated with the processing of your request.

Sincerely,


CARIN M. COZZA
LT, JAGC, USN

Encl:
(1) Documents